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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,858	02/23/2004	Jason Tyler Griffin	ID-267 (80213)	9424

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EXAMINER

VU, MICHAEL T

ART UNIT	PAPER NUMBER
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2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/784,858

Applicant(s)

GRIFFIN, JASON TYLER

Examiner

Michael Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-18,20-24 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-18, 20-24, and 26-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 18, 2007 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4-18, 20-24, and 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over AARNIO (US 2004/0078274) in view of Dolwin (US 2003/0092421), and further in view of Fry (US 2004/0117459).

Regarding **claims 1, 10, 17 and 23**, AARNIO teaches a cellular communications system (Fig. 1, Mobile Terminal #14 and Mobile Network/Base Station #12) comprising:

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a plurality of mobile cellular communications devices each associated with a respective user (Fig.1-2); at least one cellular base station (Fig. 1) for wirelessly communicating with said plurality of mobile cellular communications devices (Fig. 1), said at least one cellular base station having a capacity associated therewith (Fig. 1-2); and a central station (Mobile Provider/Mobile Switching Center, [0002]) for determining available capacity of said at least one cellular base station based upon active wireless communications with said mobile cellular communications devices [0012, 0021-0023]; and a subscription server for cooperating with said central station to provide non-real time subscription data to users on respective mobile cellular communications devices via said at least one cellular base station [0012, 0021-0023]

But is silent on when the determined available capacity thereof is greater than a threshold.

However, Dolwin teaches the data transmission system that includes a plurality of radio base stations in communication with a plurality of mobile communications devices over a radio interface, in which an operation and maintenance centre (OMC) 29 collects the statistics from network infrastructure elements such as base stations and switches to provide network operators with a high level view of the network's performance. The OMC uses to determine how much of the available capacity of the network or parts of the network is being used at different times of day. The time of low traffic may be identified by detecting when measured traffic at an interface falls below a threshold level or by analyzing historical data to determine a period when low traffic is expected. The reference to the traffic going below a threshold level could in some

systems, be described more accurately as available capacity in the system going above a certain threshold [0004, 0013-0015].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify AARNIO, such that when the determined available capacity thereof is greater than a threshold, to improve the performance of the less traffic and more efficient data/electronic transfer files over the wireless communications network.

But AARNIO and Dolwin do not clearly disclose on said subscription server cooperating with said central station to discontinue providing subscription data to respective mobile cellular communications devices based upon an initiation of a telephone calls.

However, Fry teaches a method and system for a network having the client and/or the server is capable of suspending and resuming downloading of the multimedia message, in which when the client or server generates a command for suspending a current downloading of a multimedia message, the server suspends the downloading of the multimedia message, and a marker is generated for marking the position of suspending the multimedia message. When the client or server generates a command for resuming the suspended downloading of the multimedia message, the server resumes the downloading from the position of suspending marked by the marker. The client when receiving additional subsequent portions of the multimedia message after generating a marker for marking the position of suspending the multimedia message, stores these additional subsequent portions of the multimedia message, generates a

new marker pointing to the end of the received additional subsequent portions of the multimedia message, and stores the new marker (See [0009-0015]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify AARNIO/Dolwin, such that the subscription server cooperating with said central station to discontinue providing subscription data to respective mobile cellular communications devices based upon an initiation of a telephone calls, to avoid and/or prevent the redundant transmissions such as continue to download where it has left for saving cost and no time is wasted to users.

Regarding **claims 2, 18 and 24**, AARNIO/Dolwin/Fry teach a cellular communications system of claim 1 wherein said subscription server cooperates with said central station to discontinue providing subscription data when the determined available capacity falls below the threshold [Fig. 1 Prior Art, 0004, 0013-0015] of Dolwin.

Regarding **claims 4, 11 and 26**, AARNIO/Dolwin/Fry teach a cellular communications system of claim 1 wherein said central station maintains accounts for respective users; wherein said central station charges user accounts differently for providing wireless voice communications and non-real time subscription data [0010-0013, 0020-0023] of AARNIO.

Regarding **claims 5, 12 and 27**, AARNIO/Dolwin/Fry teach a cellular communications system of claim 1 wherein said at least one cellular base station generates capacity usage information, and wherein said central station determines the available capacity based thereon [0004, 0013-0015] of Dolwin.

Regarding **claims 6, 13, 20 and 28**, AARNIO/Dolwin/Fry teach a cellular communications system of claim 1 wherein said subscription server further cooperates with said central station to provide a subscription data menu to users on respective mobile cellular communications devices, and wherein users order non-real time subscription data based upon the subscription data menu [0004, 0023-0026] of AARNIO.

Regarding **claims 7 and 14**, AARNIO/Dolwin/Fry teach a cellular communications system of claim 1 further comprising a wide area network (WAN) connecting said subscription server to said central station (Fig. 1, Prior Art) of Dolwin.

Regarding **claims 8, 15, 21 and 29**, AARNIO/Dolwin/Fry teach a cellular communications system of claim 1 wherein the subscription data comprises at least one of news articles, books, video game data, image data, and television programming schedule data [0004, 0022-0023] of AARNIO.

Regarding **claims 9, 16, 22 and 30**, AARNIO/Dolwin/Fry teach a cellular communications system of claim 1 wherein the subscription data comprises electronic mail (email) data (Short Message Service SMS [0011]) of AARNIO.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Vu whose telephone number is (571) 272-8131. The examiner can normally be reached on 8:00am - 6:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael T. Vu
Examiner



JOSEPH FEILD
SUPERVISORY PATENT EXAMINER